

DISTRICT OF COLUMBIA  
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ALCOHOLIC BEVERAGE CONTROL BOARD  
+ + + + +  
MEETING

IN THE MATTER OF:

Saigon Bistro, LLC, t/a	
Saigon Bistro	Show Cause
2153 P Street NW	Hearing
License No. 81175	(Status)
Retailer CR	
ANC 2B	

Case Number 11-CMP-00385

Wednesday  
February 5, 2014

The Alcoholic Beverage Control Board met in Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street N.W., Washington, D.C., Chairperson Ruthanne Miller presiding.

PRESENT:

RUTHANNE MILLER, Chairperson  
NICK ALBERTI, Member  
DONALD BROOKS, Member  
HECTOR RODRIGUEZ, Member  
MICHAEL SILVERSTEIN, Member  
JAMES SHORT, Member  
HERMAN JONES, Member

ALSO PRESENT:

Chrissy Gephardt, OAG

P-R-O-C-E-E-D-I-N-G-S

(11:53 a.m.)

CHAIRPERSON MILLER: Okay, we now have a Show Cause Hearing, Case Number, or a status hearing \*\*\*11:53:53. Case Number 11-CMP-0385, Saigon Bistro, located 2135 P Street NW, License Number 81175 in ANC 2B.

MS. GEPHARDT: Good morning.  
Chrissy --

MALE PARTICIPANT: Good morning.

MS. GEPHARDT: -- Gephardt on behalf of the Office of the Attorney General for District of Columbia.

CHAIRPERSON MILLER: Good morning.  
Anybody here for Saigon Bistro?

MS. GEPHARDT: I don't believe there is.

CHAIRPERSON MILLER: I don't believe so. Okay, the case was scheduled for 11:00 o'clock and it's 11:54 a.m., and have you heard anything from the establishment, Ms. Gephardt?

1 MS. GEPHARDT: No, I have not.

2 CHAIRPERSON MILLER: Okay. Is it  
3 your wish to proceed ex parte then?

4 MS. GEPHARDT: Yes, that's  
5 correct.

6 CHAIRPERSON MILLER: Okay. Then  
7 whenever you are ready.

8 MS. GEPHARDT: Okay. Good  
9 morning, Board Members. Today there is a  
10 charge that is being brought against these  
11 licensees, one charge, and that is failing to  
12 file with the Board the required Quarterly  
13 Statement for the second quarter of 2011, by  
14 July 30th, in violation of 25113(b)(2)(a).

15 You will hear from Monica Clark,  
16 ABRA's Compliance Analyst, regarding the  
17 licensee's Second Quarter Statement 2011. She  
18 will state that as of July 30th the second  
19 quarter statement had not been filed.

20 She will explain the process by  
21 which ABRA determines if a statement's been  
22 timely filed and through that process was able

1 to determine that the licensee's filing, which  
2 was actually received on September the 7th,  
3 2011. I'd like to now call to the stand Ms.  
4 Monica Clark.

5 CHAIRPERSON MILLER: Good morning.  
6 Do you swear to tell the truth, the whole  
7 truth and nothing but the truth?

8 MS. CLARK: I do.

9 CHAIRPERSON MILLER: Thank you.

10 DIRECT EXAMINATION

11 MS. GEPHARDT: Good morning, Ms.  
12 Clark. Can you please state your name and  
13 spell it for the record?

14 MS. CLARK: My name is Monica  
15 Clark, M-O-N-I-C-A, last name is C-L-A-R-K.

16 MS. GEPHARDT: And, Ms. Clark,  
17 where do you work?

18 MS. CLARK: For the Alcoholic  
19 Beverage Regulation Administration.

20 MS. GEPHARDT: And what is your  
21 title?

22 MS. CLARK: Compliance Analyst.

1 MS. GEPHARDT: And how long have  
2 you been a Compliance Analyst with ABRA?

3 MS. CLARK: Since July 2012.

4 MS. GEPHARDT: Okay. And what are  
5 your responsibilities as a Compliance Analyst?

6 MS. CLARK: I receive and record  
7 and analyze quarterly statements received from  
8 licensees. And I also participate in audit  
9 matters.

10 MS. GEPHARDT: Okay. And are you  
11 familiar with a licensee by the name of Saigon  
12 Bistro?

13 MS. CLARK: I am.

14 MS. GEPHARDT: I want to draw your  
15 attention to the Quarterly Statement filing  
16 period for the second quarter of 2011. Can  
17 you tell us what date those filings are due?

18 MS. CLARK: That would have,  
19 second quarter would be April, May and June,  
20 and the date that it would have been due would  
21 have been by the 30th of July of that year,  
22 2012.

1 MS. GEPHARDT: Okay.

2 MS. CLARK: 2011, sorry.

3 MS. GEPHARDT: Okay. And do you  
4 know if Saigon Bistro filed their 2011 Second  
5 Quarter Statement by July 30th, 2011?

6 MS. CLARK: They, according to  
7 ABRA's records, they had not filed their  
8 statement by the due date.

9 MS. GEPHARDT: Do you know what  
10 date their filing was actually filed?

11 MS. CLARK: The filing was  
12 actually received September 7th, 2011.

13 MS. GEPHARDT: Okay. I'd like to  
14 show the witness what I've marked as  
15 Government's Exhibit 1.

16 CHAIRPERSON MILLER: Okay.

17 MS. GEPHARDT: And I'd like to  
18 show a copy to the Board.

19 (Off the record comments)

20 MS. GEPHARDT: All right, Ms.  
21 Clark, can you tell the Board what this  
22 document is showing?

1 MS. CLARK: This is a Quarterly  
2 Statement received from Saigon Bistro. It was  
3 for the second quarter of the year 2011. It  
4 shows recorded information, license  
5 information, sales and expenditures for that  
6 particular establishment.

7 MS. GEPHARDT: And do you know  
8 what date this was received?

9 MS. CLARK: According to the date  
10 stamped on the top of the document, it was  
11 September 7, 2011 at 2:04 p.m.

12 MS. GEPHARDT: And do you know how  
13 this Quarterly Statement came to ABRA?

14 MS. CLARK: This is a manual  
15 filing. And when I say, manual, I mean it was  
16 handwritten and it appears to have been  
17 received through the mail.

18 MS. GEPHARDT: And do you know  
19 what date in the mail that -- can you state,  
20 on the second page of this exhibit, can you  
21 state what date that this quarterly statement  
22 was sent to ABRA?

1 MS. CLARK: On the second page  
2 there's a copy of the envelope that the  
3 document was actually received and it is  
4 postmarked September 1st, 2011.

5 MS. GEPHARDT: Okay. Thank you.  
6 The Government would ask that Government's  
7 Exhibit 1 be admitted into evidence.

8 CHAIRPERSON MILLER: Okay, so  
9 admitted.

10 MS. GEPHARDT: All right, that's  
11 all I have for this witness. Thank you.

12 CHAIRPERSON MILLER: Any more  
13 questions? I just have a question, did you  
14 have any contact with the owner, or any  
15 representative of Saigon Bistro, with respect  
16 to the Quarterly Statement?

17 MS. CLARK: Not in regards to this  
18 incident, no. No, ma'am.

19 CHAIRPERSON MILLER: Do have any  
20 information that would show light on why they  
21 may have been late in filing their report?

22 MS. CLARK: This was, actually, in



1       2011, which was actually before I started with  
2       ABRA, so I don't have any prior information in  
3       regards to why this particular one was  
4       received late.

5                   CHAIRPERSON MILLER:   Okay.   Since  
6       they're not here to enlighten us.

7                   MS. CLARK:   True.

8                   CHAIRPERSON MILLER:   Okay.   All  
9       right, thank you.   I guess, you can give a  
10      statement then.

11                  MS. GEPHARDT:   Okay, thank you.  
12      Thanks.   Okay, the Government would now like  
13      to conclude the case with a closing statement.

14                  CHAIRPERSON MILLER:   Okay.

15                  MS. GEPHARDT:   The Government has  
16      shown through the testimony of Ms. Clark today  
17      that this licensee's Quarterly Report for the  
18      second quarter of 2011 was not received before  
19      the deadline of July 30th, 2011.

20                  Ms. Clark testified that the  
21      Quarterly Filing Statement was received via  
22      first class mail, which was sent out on

1       September 1st, 2011 and was received and date-  
2       stamped to ABRA on September the 7th, 2011,  
3       making the quarterly filing late for the  
4       second quarter of 2011.

5               The Government would ask that  
6       based on this, the licensee be found liable  
7       for this violation and that they be fined  
8       \$750. Thank you.

9               CHAIRPERSON MILLER: Okay, and can  
10      I just ask you, your reasoning for requesting  
11      the \$750?

12              MS. GEPHARDT: Honestly?

13              CHAIRPERSON MILLER: Honestly.

14              MS. GEPHARDT: I'm covering this  
15      case for my --

16              CHAIRPERSON MILLER: Oh.

17              MS. GEPHARDT: -- Mike Stern, and  
18      --

19              CHAIRPERSON MILLER: That's his  
20      recommendation?

21              MS. GEPHARDT: And he said, tell  
22      the Board \$750. And I apologize, I did not

1 analyze the fine amount.

2 CHAIRPERSON MILLER: Okay, that's  
3 all right. Thank you. Okay. Do you want to  
4 submit the \*\*\*12:02:04?

5 MS. GEPHARDT: No thank you.

6 CHAIRPERSON MILLER: All right.  
7 Okay.

8 MS. GEPHARDT: Because I have all  
9 that extra time.

10 CHAIRPERSON MILLER: The record is  
11 closed in this case and we will consider it in  
12 closed session, issue an order \*\*\*12:02:20 and  
13 I will read the instructions so we can take a  
14 vote on considering it in closed session.

15 As Chairperson of the Alcoholic  
16 Beverage Control Board in the District of  
17 Columbia in accordance with Section 405 of the  
18 Open Meetings Amendment Act of 2010, I move  
19 that the ABC Board hold a closed meeting for  
20 the purpose of seeking legal advice from our  
21 counsel on Case Number 11-CMP-00385.

22 Per Section 405(b)(4) of the Open

1 Meetings Amendment Act of 2010 and  
2 deliberating upon this case for the reasons  
3 cited of Section 405(b)(13) of the Open  
4 Meetings Amendment Act of 2010. Is there a  
5 second?

6 MEMBER BROOKS: I do.

7 CHAIRPERSON MILLER: Mr. Brooks  
8 has seconded the motion. I'll now take a roll  
9 call. I'll take a roll call vote on the  
10 motion now that it's been seconded. Mr.  
11 Brooks?

12 MEMBER BROOKS: I agree.

13 CHAIRPERSON MILLER: Mr. Alberti?

14 MEMBER ALBERTI: I agree.

15 CHAIRPERSON MILLER: Mr.

16 Rodriguez?

17 MEMBER RODRIGUEZ: I agree

18 CHAIRPERSON MILLER: And Ms.

19 Miller agrees. Mr. Silverstein?

20 MEMBER SILVERSTEIN: I agree.

21 CHAIRPERSON MILLER: Mr. Short?

22 MEMBER SHORT: I agree.

1 CHAIRPERSON MILLER: Mr. Jones?

2 MEMBER JONES: I agree.

3 CHAIRPERSON MILLER: It appears  
4 the his motion has passed by a 7-0-0 vote. I  
5 hereby give notice that the ABC Board will  
6 hold a closed meeting on this case in the ABC  
7 Board conference room, pursuant to the Open  
8 Meetings Amendment Act of 2010. Okay and that  
9 concludes this case then. Thank you very  
10 much.

11 MS. GEPHARDT: Thank you.

12 CHAIRPERSON MILLER: And I believe  
13 that concludes our hearings for this morning.  
14 So we will recess and we will return for our  
15 1:30 p.m. afternoon hearing. Thank you.

16 (Whereupon, at 12:04 a.m., the  
17 show cause hearing was adjourned.)  
18  
19  
20  
21  
22

<hr/> <b>A</b> <hr/> <b>\$750</b> 10:8,11,22 <b>a.m</b> 2:2,20 13:16 <b>ABC</b> 11:19 13:5,6 <b>able</b> 3:22 <b>ABRA</b> 3:21 5:2 7:13,22 9:2 10:2 <b>ABRA's</b> 3:16 6:7 <b>Act</b> 11:18 12:1,4 13:8 <b>adjourned</b> 13:17 <b>Administration</b> 4:19 <b>admitted</b> 8:7,9 <b>advice</b> 11:20 <b>afternoon</b> 13:15 <b>agree</b> 12:12,14,17 12:20,22 13:2 <b>agrees</b> 12:19 <b>Alberti</b> 1:16 12:13 12:14 <b>Alcoholic</b> 1:2,12,13 4:18 11:15 <b>Amendment</b> 11:18 12:1,4 13:8 <b>amount</b> 11:1 <b>Analyst</b> 3:16 4:22 5:2,5 <b>analyze</b> 5:7 11:1 <b>ANC</b> 1:8 2:7 <b>Anybody</b> 2:15 <b>apologize</b> 10:22 <b>appears</b> 7:16 13:3 <b>April</b> 5:19 <b>attention</b> 5:15 <b>Attorney</b> 2:12 <b>audit</b> 5:8	5:12 6:4 7:2 8:15 <b>Board</b> 1:2,13 3:9 3:12 6:18,21 10:22 11:16,19 13:5,7 <b>Brooks</b> 1:17 12:6,7 12:11,12 <b>brought</b> 3:10 <b>Building</b> 1:13 <hr/> <b>C</b> <hr/> <b>C-L-A-R-K</b> 4:15 <b>call</b> 4:3 12:9,9 <b>case</b> 1:9 2:4,5,19 9:13 10:15 11:11 11:21 12:2 13:6,9 <b>cause</b> 1:6 2:4 13:17 <b>Chairperson</b> 1:14 1:16 2:3,14,18 3:2 3:6 4:5,9 6:16 8:8 8:12,19 9:5,8,14 10:9,13,16,19 11:2,6,10,15 12:7 12:13,15,18,21 13:1,3,12 <b>charge</b> 3:10,11 <b>Chrissy</b> 1:21 2:9 <b>cited</b> 12:3 <b>Clark</b> 3:15 4:4,8,12 4:14,15,16,18,22 5:3,6,13,18 6:2,6 6:11,21 7:1,9,14 8:1,17,22 9:7,16 9:20 <b>class</b> 9:22 <b>closed</b> 11:11,12,14 11:19 13:6 <b>closing</b> 9:13 <b>CMP-0385</b> 2:6 <b>Columbia</b> 1:1 2:13 11:17 <b>comments</b> 6:19 <b>Compliance</b> 3:16 4:22 5:2,5 <b>conclude</b> 9:13 <b>concludes</b> 13:9,13	<b>conference</b> 13:7 <b>consider</b> 11:11 <b>considering</b> 11:14 <b>contact</b> 8:14 <b>Control</b> 1:2,12,13 11:16 <b>copy</b> 6:18 8:2 <b>correct</b> 3:5 <b>counsel</b> 11:21 <b>covering</b> 10:14 <b>CR</b> 1:8 <hr/> <b>D</b> <hr/> <b>D.C</b> 1:14 <b>date</b> 5:17,20 6:8,10 7:8,9,19,21 10:1 <b>deadline</b> 9:19 <b>deliberating</b> 12:2 <b>determine</b> 4:1 <b>determines</b> 3:21 <b>DIRECT</b> 4:10 <b>District</b> 1:1 2:13 11:16 <b>document</b> 6:22 7:10 8:3 <b>DONALD</b> 1:17 <b>draw</b> 5:14 <b>due</b> 5:17,20 6:8 <hr/> <b>E</b> <hr/> <b>enlighten</b> 9:6 <b>envelope</b> 8:2 <b>establishment</b> 2:21 7:6 <b>evidence</b> 8:7 <b>ex</b> 3:3 <b>EXAMINATION</b> 4:10 <b>exhibit</b> 6:15 7:20 8:7 <b>expenditures</b> 7:5 <b>explain</b> 3:20 <b>extra</b> 11:9 <hr/> <b>F</b> <hr/> <b>failing</b> 3:11 <b>familiar</b> 5:11	<b>February</b> 1:11 <b>file</b> 3:12 <b>filed</b> 3:19,22 6:4,7 6:10 <b>filing</b> 4:1 5:15 6:10 6:11 7:15 8:21 9:21 10:3 <b>filings</b> 5:17 <b>fine</b> 11:1 <b>fined</b> 10:7 <b>first</b> 9:22 <b>found</b> 10:6 <hr/> <b>G</b> <hr/> <b>General</b> 2:12 <b>Gephardt</b> 1:21 2:8 2:11,11,16,22 3:1 3:4,8 4:11,16,20 5:1,4,10,14 6:1,3 6:9,13,17,20 7:7 7:12,18 8:5,10 9:11,15 10:12,14 10:17,21 11:5,8 13:11 <b>give</b> 9:9 13:5 <b>Good</b> 2:8,10,14 3:8 4:5,11 <b>Government</b> 8:6 9:12,15 10:5 <b>Government's</b> 6:15 8:6 <b>guess</b> 9:9 <hr/> <b>H</b> <hr/> <b>handwritten</b> 7:16 <b>hear</b> 3:15 <b>heard</b> 2:21 <b>hearing</b> 1:7,13 2:4 2:5 13:15,17 <b>hearings</b> 13:13 <b>HECTOR</b> 1:17 <b>HERMAN</b> 1:19 <b>hold</b> 11:19 13:6 <b>Honestly</b> 10:12,13 <hr/> <b>I</b> <hr/> <b>incident</b> 8:18	<b>information</b> 7:4,5 8:20 9:2 <b>instructions</b> 11:13 <b>issue</b> 11:12 <hr/> <b>J</b> <hr/> <b>JAMES</b> 1:18 <b>Jones</b> 1:19 13:1,2 <b>July</b> 3:14,18 5:3,21 6:5 9:19 <b>June</b> 5:19 <hr/> <b>K</b> <hr/> <b>know</b> 6:4,9 7:7,12 7:18 <hr/> <b>L</b> <hr/> <b>late</b> 8:21 9:4 10:3 <b>legal</b> 11:20 <b>liable</b> 10:6 <b>license</b> 1:7 2:7 7:4 <b>licensee</b> 5:11 10:6 <b>licensee's</b> 3:17 4:1 9:17 <b>licensees</b> 3:11 5:8 <b>light</b> 8:20 <b>LLC</b> 1:6 <b>located</b> 2:6 <b>long</b> 5:1 <hr/> <b>M</b> <hr/> <b>M-O-N-I-C-A</b> 4:15 <b>ma'am</b> 8:18 <b>mail</b> 7:17,19 9:22 <b>making</b> 10:3 <b>MALE</b> 2:10 <b>manual</b> 7:14,15 <b>marked</b> 6:14 <b>MATTER</b> 1:5 <b>matters</b> 5:9 <b>mean</b> 7:15 <b>meeting</b> 1:3 11:19 13:6 <b>Meetings</b> 11:18 12:1,4 13:8 <b>Member</b> 1:16,17,17 1:18,18,19 12:6
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<b>O</b>	<b>R</b>	<b>U</b>	<b>V</b>	<b>Z</b>
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<b>P</b>		<b>W</b>		
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